

Approved as Submitted: July 2, 2003

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR REDEVELOPMENT  
AND SPECIAL CITY COUNCIL MEETING  
MINUTES – JUNE 25, 2003**

**CALL TO ORDER**

Chairperson/Mayor Kennedy called the special meeting to order at 6:02 P.M.

**ROLL CALL ATTENDANCE**

Present: Chairperson/Mayor Kennedy  
Agency/Council Members Carr, Chang, Sellers, and Tate.

**DECLARATION OF POSTING OF AGENDA**

Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***Redevelopment Agency and City Council Action***

**CLOSED SESSIONS:**

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

**2.**

**CONFERENCE WITH LABOR NEGOTIATOR:**

Authority: Government Code Section 54957.6

Agency Negotiators: Ed Tewes, City Manager; Helene L. Leichter, City Attorney; Mary Kaye Fisher, Human Resources Director

Employee Organization: AFSCME Local 101  
Morgan Hill Community Service Officers Association  
Morgan Hill Police Officers Association

Unrepresented Employees: Custodian/Building Maintenance Worker  
Government Access Technician  
Maintenance Worker Assistant  
Utility Worker Assistant

Executive Management Group 1-A  
Chief of Police  
Director of Business Assistance & Housing Services  
Director of Community Development  
Director of Finance  
Director of Public Works/City Engineer

Human Resources Director  
Recreation and Community Services Manager  
Assistant to the City Manager  
Council Services and Records Manager

Middle Management Group 1-B

Police Captain  
Deputy Director of Public Works  
Assistant City Attorney  
Assistant Director of Finance  
Chief Building Official  
Human Resources Supervisor  
Planning Manager  
Senior Civil Engineer  
Budget Manager  
Business Assistance and Housing Services Manager  
Police Support Services Supervisor  
Senior Planner  
Project Manager  
Utility Systems Manager  
Recreation Supervisor  
Secretary to the City Manager

Confidential Non-Exempt Employees Group 1-C

Administrative Analyst  
Secretary to the City Attorney  
Accounting Technician  
Human Resources Assistant

## **OPPORTUNITY FOR PUBLIC COMMENT**

Chairperson/Mayor Kennedy opened the Closed Session items to public comment.

Mr. Bruce Tichinin, Attorney, asked to address the Council regarding an item on closed session. He stated he was representing Hedy Chang in a matter to be discussed in closed session.

City Attorney Leichter reminded Mr. Tichinin that what he was about to say would be part of the public record.

Mr. Tichinin stated that he would prefer to speak to the Council off the record on this issue, if possible.

Mr. Richard Whitmore, Attorney, stated that it would be appropriate to speak off the record only to the City Attorney, but not to the City Council.

Mr. Tichinin stated that he had already spoken with the City Attorney, and saw no reason to do so again. He stated that his comments were concluded.

No further comment being offered, the public comment was closed.

### **ADJOURN TO CLOSED SESSION**

Chairperson/Mayor adjourned the meeting to Closed Session at 6:04 P.M.

### **RECONVENE**

Chairperson/Mayor reconvened the meeting at 7:03 P.M.

### **CLOSED SESSION ANNOUNCEMENT**

Mayor Kennedy announced there were no actions taken.

### **SILENT INVOCATION**

Chairperson/Mayor invited all to join in a silent invocation.

### **PLEDGE OF ALLEGIANCE**

Chairperson/Mayor Kennedy extended an invitation to lead the Pledge of Allegiance to Santa Clara County Fire Department Battalion Chief Darbro.

### **RECOGNITIONS**

Sister Cities Committee introduced Mayor Roselli from San Casciano, Italy, our Sister City.

Mayor Kennedy and City Council Members presented Joyce Maskell with a gift of a clock in recognition for her outstanding work in the completion of the Community Playhouse Project.

### **CITY COUNCIL SUB-COMMITTEE REPORT**

None.

### **CITY MANAGER REPORT**

City Manager Tewes reported the testing regimen for domestic water wells for perchlorate is continuing, and he is pleased to report all city wells have again tested non detect this month.

He also reported that the State has still not adopted a budget. State senate voted on a proposal, but it failed because of lack of enough votes. He has started to see numbers proposed in bills being voted on. The amount of \$1.2 billion is being proposed to be cut from cities; and our share of that amount would be nearly 500K from next fiscal year. He stated that it is important to stay vigilant and watchful and remind the legislature about reductions in local services that would result from such a funding reduction.

### **CITY ATTORNEY REPORT**

City Attorney Leichter made no report.

### **OTHER REPORTS**

None were presented.

### **PUBLIC COMMENT**

Mayor Kennedy opened the floor to comment on items not on the agenda.

Mr. John Amos, a Volunteer in Fire Prevention (VIP) with California Department of Forestry, working out of the CDF facility on South Monterey Road, invited the Council and the public to visit the facility this weekend. They will be having a Field Day activity to test their amateur radio community's equipment for a twenty-four hour period beginning at 11:00 a.m. on Saturday until 11:00 a.m. on Sunday. This exercise is intended to ensure that all the equipment will operate effectively in the event of a major emergency. He also invited the Council to a small barbeque to be held at 6:00 p.m. on Saturday evening.

Mr. Dan Craig, of the Morgan Hill Downtown Association asked to speak on two items. There will be an Annual meeting and reception tomorrow night at the Community and Cultural Center at 6:00 p.m., and he invited the Council and public to come to the meeting. The second item he addressed is the current residential conversion ordinance as part of downtown plan implementation. He is particularly concerned about the yellow house on Monterey Road where Penny's Pretties was previously located. This recent change of use has triggered some requirements that are onerous for the tenant applying to occupy the building. He stated he is aware that City staff are working on this and wanted to weigh in on it and encourage the Council and staff to explore ways to resolve this issue in a timely manner so that a commercial tenant can be placed in this building.

Mr. Jerry Di Salvo also spoke regarding this yellow house located in the downtown area. He is the owner, and has tried to entice a new tenant, but those that are interested found that the use had never been changed from residential to business, even though there was a business use there for over five years. The cost of converting the building to meeting code requirements for handicapped access would be a hardship on the business. He could keep it residential, but this would not be a good use in this location. His favorite solution would be to have the Council override the use change. Staff cannot do this without the assistance of the Council. He is concerned about the hardship of conversion of the building to meet the code requirements for a business use. Building Inspector Ken de Luna had suggested going for a historical status, which would allow less onerous handicap requirements, but he would have to find an applicant that would allow for this type of designation. This would also restrict him in the future from expanding his building. He requested that the B use be allowed to continue.

Santa Clara County Fire Battalion Chief Darbro addressed this issue based on the current fire codes. He stated that staffing of fire department is at a minimum, and to dilute the fire codes currently on the books

would cause the residential safety level to drop. Putting a business in that building would increase the level of fire hazard. He encouraged the Council to enforce the current code to maintain public safety for the benefit of public.

Council Member Tate commented that the Economic Development Subcommittee is already meeting on this issue and he wanted to let the speakers know that this is under consideration. They will report back to the Council when they have completed their study of the issue.

### ***Redevelopment Agency Action***

**Action:** *On a motion by Agency Member Tate, and seconded by Agency Member Sellers, the Agency Board unanimously (5-0) **Approved** Consent Calendar Item 1, as follows:*

1. **MORGAN HILL DOWNTOWN ASSOCIATION (MHDA) AGREEMENT**

**Action:** ***Authorized** the Executive Director to Negotiate and Execute an Agreement with the Morgan Hill Downtown Association (MHDA) in an Amount Not to Exceed \$80,000, Subject to Agency General Counsel Approval.*

### ***City Council Action***

#### **CONSENT CALENDAR:**

Council Member Sellers requested that Item 5 be pulled for comment.

Council Member Tate requested that Items 13 and 15 be pulled for a separate vote.

Council member Carr requested that Item 14 be pulled for comment.

**Action:** *On a motion by Council Member and seconded by Council Member, the City Council unanimously (5-0) **Approved** Consent Calendar Item 2 -4 and 6-12, as follows:*

2. **MAY 2003 FINANCE AND INVESTMENT REPORT**

**Action:** ***Accepted** and **Filed** Report.*

3. **AWARD CONTRACT TO PROVIDE PUBLIC WORKS PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS**

**Action:** *1) **Approved** a Professional Contract with Harris and Associates, Inc. to Provide Land Development Plan Checking Services on an As-Needed Basis at a Cost Not-to-Exceed of \$100,000 for Fiscal Year 2003-2004; and 2) **Authorized** the City Manager to Execute the Contract, Subject to Review and Approval by the City Attorney.*

4. **AWARD OF CONTRACT TO PROVIDE PUBLIC WORKS INSPECTIONS ON AN AS-**

**NEEDED BASIS**

**Action:** 1) **Approved** a Professional Services Contract with Testing Engineers, Inc. (TEI) to Provide Public Works Inspection Services on an As-Needed Basis at a Cost Not to Exceed \$127,000 for Fiscal Year 2003-2004; and 2) **Authorized** the City Manager to Execute the Contract, Subject to Review and Approval from the City Attorney.

**5. COMMUNITY INDOOR RECREATION CENTER APPROVAL OF SUBCOMMITTEE APPOINTMENTS**

Council Member Sellers commented that there has been concern that there is not a broad committee involvement on the IRC. He stated that the Council has made the decision to have one committee involved in the IRC, but this one committee will include representatives from other committees. He stated that everyone involved will need to be prepared to work, because they will be the only committee and there will be much to do over the next few months.

**Action:** On a motion by Council Member Tate, and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Subcommittee Appointments.

**6. APPROVE LEASE FOR WOODLAND ESTATES**

**Action:** 1) **Approved** Lease Agreement; and 2) **Authorized** the City Manager to Execute the Lease of City-owned Open Space Adjacent to Llagas Creek with Woodland Estates for the Fee of \$1.00 Per Year.

**7. AWARD OF CONTRACT FOR 2002-2003 PAVEMENT RESURFACING PROJECT**

**Action:** 1.) **Awarded** Contract to O'Grady Paving, Inc. in the Amount of \$788,982 for Construction of the 2002-2003 Street Resurfacing and Reconstruction Project; and 2) **Authorized** a \$78,898 (10%) Construction Contingency.

**8. COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE AGREEMENT**

**Action:** **Directed** Staff to Execute the Agreement with the County.

**9. PUBLIC WORKS MAINTENANCE AGREEMENTS FOR FISCAL YEAR 2003-2004**

**Action:** Contingent upon Approval of the Fiscal Year 2003-2004 Budget:

1. **Approved** New Maintenance Agreements for
  - a) Emergency Pump Maintenance and Repair for Booster Stations
  - b) Generator Maintenance Services; and
  - c) Emergency Repairs, Maintenance, and Parts for Well Sites;
2. **Approved** One Year Extensions to Agreements for
  - a) Laboratory Services for Potable Water Sampling and Analysis
  - b) Landscape Maintenance Services; and
  - c) Annual Tree Pruning and Removal;
3. **Authorized** the City Manager to Execute the Agreements/Extensions on Behalf of the City, Subject to Review and Approval of City Attorney.

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10. **APPROVAL OF PROFESSIONAL SERVICES CONTRACT FOR SEWER TRUNK SURVEYING**

**Action:** ***Authorized** the City Manager to Execute a Contract in the Amount of \$38,000 with Bagoye & King Surveying for a Preliminary Survey of the Proposed Sewer Trunk Alignment, Subject to Review and Approval by the City Attorney.*

11. **APPROVAL OF CONTRACT/FUNDING FOR CONTRACT TEMPORARY ENGINEERING SERVICES**

**Action:** ***Approved** the Contract and Funding for Two Temporary Full-time, and One Part-time Contract Engineers.*

12. **ACCEPTANCE OF STATE HIGHWAY 101 AT TENNANT AVENUE NORTHBOUND RAMPS SIGNAL PROJECT**

**Action:** *1) **Accepted** as Complete the State Highway 101 at Tennant Avenue Northbound Ramps Project in the Final Amount of \$206,152; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.*

13. **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 12, 2003**

Mayor Kennedy requested the following correction to these minutes: to change the time the meeting was called to order from 9:30 p.m. to 9:30 a.m.

Council Member Sellers requested the correction of the final sentence of the final paragraph from "Council Member Carr continued" to "Council Member Sellers continued".

**Action:** *On a motion by Council Member Sellers, and seconded by Council Member Chang, the City Council voted 3-0-2, with Carr and Tate abstaining, to **Approve** the Minutes of June 12, 2003, as amended.*

## ***Redevelopment Agency and City Council Action***

### **CONSENT CALENDAR:**

14. **MORGAN HILL COURTHOUSE ENVIRONMENTAL IMPACT REPORT**

Council Member Carr asked a representative of Santa Clara County who was present if the article he had read in the Mercury News stating that the County was restructuring its courts would have an impact on the future Morgan Hill Courthouse; in particular, the programming that would go on in the courthouse.

Council Member Sellers also asked for information on the any structural changes and usage changes that are planned, such as the number of judges and facility usage.

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The County representative responded that he could not provide an answer, but that he would take the questions back to the County and respond to the Council's questions.

City Manager noted that the Council has been provided with a revised version of Resolution No. 5687, which has a change on page 4, paragraph H, dealing with impact fees. The County did not respond to the comment on these fees, and he is aware that the County Counsel is conducting an evaluation of whether or not the County might be exempt from impact fees. In certifying the EIR the City wants to make clear in the new Section H the City is reserving the right to charge impact fees, if applicable.

**Action:**        *On a motion by Agency/Council Member Sellers, and seconded by Agency/Council Member Chang, the Agency Board /Council unanimously (5-0) **Adopted** the revised version of Resolution No. 5687, Considering the Environmental Impact Report, Making Required CEQA Findings, and Adopting a Mitigation Monitoring and Reporting Program for the Morgan Hill Courthouse Project.*

**15.     APPROVED JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 11, 2003**

**Action:**        *On a motion by Agency/Council Member Sellers, and seconded by Agency/Council Member Chang, the Agency Board /Council unanimously (4-0-1, with Tate abstaining) **Approved** Consent Calendar Item 15.*

***City Council Action***

**OTHER BUSINESS:**

**16.     DISCUSSION OF PHASING FOR COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD) (Continued from June 18, 2003)**

Director of Community Development Bischoff presented the staff report.

City staff has not been able to reach an agreement with the developers on how to develop the property within the current constraints of the general plan. There is no action before the Council this evening in regard to this specific project. Council is only being asked to make a decision on a policy matter at this time to provide direction to staff on how to implement the policy language as to what constitutes a "larger development" under Land Use Policy 10C of the General Plan, Action 10.5.

Mayor Kennedy opened the public comment.

Mr. John Telfer addressed the Council and stated that he had asked for PUD approval in advance of development of the property so he knows what can be done on a site and what the City wants to see on the property when he goes out to market these groups of properties. Stated that the owner of the middle



section of 4.5 acres has always had plans to develop his property with a service station and now has Wienerschnitzel interested in possibly adding on to that in the back. He stated that Dr. Biedermann, who owns the approximately 14 acre parcel, is proposing a 10,000 square foot medical office building.

He plans to go through the PUD process, but would like to develop these two parcels as a first phase of the PUD development. If they are not going to be able to do that, then he will not start the PUD process. He needs some direction from the Council on whether this phased development will be possible. He asked the Council to look at their policies on this issue. He asked them to define what the term “repetitive uses” means, because there does not seem to be this problem on Tennant Avenue or in this quadrant of the city.

The other issue he requested them to consider is the need for this to be part of a larger development. He feels that there should be a master plan in place for this entire 29 acre parcel, and this is what he is trying to accomplish. The question is more about whether it can be done in phases as they are requesting. He feels that it would help the potential for the development of the balance of this property to allow the phased development of these two projects. The most important reason that Dr. Biedermann does not want to go forward without the service station, is that there is a substantial amount of the infrastructure that the service station developer has agreed to install, which will be of great benefit to Dr. Biedermann’s property. He also believes that this benefits the future development of the PUD and will help attract additional uses.

Mr. Telfer requested that the Council provide some direction on the phasing issue, so he can know whether he should go forward with the PUD process.

Mr. Bruce Haller spoke as the representative from Wienerschnitzel, and as a resident of Morgan Hill. He stated that he understands the development issues of Morgan Hill, since he lives here. His company knew they did not want to be on Dunne Avenue or Cochrane, and they decided that Tennant Avenue would be a good location, and felt that it would also help to alleviate some of the traffic on Dunne Avenue. He stated that when they started working on the project 4 years ago there was no gas station in the area either. He feels that these uses are suited to Tennant Avenue. When they started the PUD process with their project they felt the process was vague. He sees other PUD developments around town that are not fully developed. He would love to be in town, but needs the traffic from the freeway to make the business a success. He is hoping for an explanation from the Council on what they are going to be able to do, and feels that Wienerschnitzel would be an asset to the community.

No further comments being offered, the public comment was closed.

Council Member Sellers stated that we have talked about this issue in the past. The difference this time is that the Council just went through a discussion of PUD developments and what is appropriate. He keeps getting stuck on the definition of a larger development and feels that it needs to be more definitive than it currently is. If, as we have indicated through staff, it makes sense to put in the medical services building by itself, than it must be that it constitutes a larger development; and if that is the case, then we should allow the other uses at the same time. The other issue that bears discussion is whether there is a need for this service or product. He stated that medical services are a significant need, that there is an

effort underway to attract medical services to the community, and this is an opportunity to attract medical services. Because this could easily be termed a larger commercial use, and this medical use is one we desire, he feels it would make sense to proceed on this. Developing that initial use will help with the development of the PUD, and he thinks the development of the infrastructure and the initial commercial use will facilitate the development of the remainder of the PUD, so he feels the Council should support this.

Mayor Kennedy concurred, and agreed with the benefit of shifting traffic from Dunne to Tennant. He asked the City Manager if this is a possible location for an auto dealership.

City Manager Tewes responded yes, but the challenge would be that it would be within the 10 mile radius of the dealerships in Gilroy, which would limit the dealerships that could locate at this site. He also noted that the Council will discuss this issue at their workshop on auto dealerships to be held next week.

Council Member Tate stated that each time this issue is raised, he has the same concern that there are only a limited number of corners near the freeway; and because they are rare and precious commodities, the Council placed the PUD requirement on them. The question is, do we want to put ancillary uses on these properties and then make a larger tenant have to fit to the ancillary uses, or do we want to get the major tenant in first and have the ancillary uses fit to them. He is not sure the 10,000 square foot medical building is the best major use of this piece of property. He does not want a major use that comes later to have to fit itself to these smaller uses.

Council Member Carr stated that he agrees, and feels that this would be a good goal if the economy was booming and a lot of people were knocking on the door to develop. But the reality is that we are not in a booming economy, and how long are we willing to hold out for an anchor tenant to help with the infrastructure. If we are going to develop, he feels that we need to lay the ground work now.

Council Member Sellers stated that he concurs, but comes to it in a different way. He asked if Council Member Tate's concern was that the piecemeal approach would preclude a major tenant being interested later on.

Council Member Tate responded yes.

Council Member Sellers stated that since this is a 14 acre parcel, he feels that the Council could proceed, with the eventual goal of having a major tenant.

Council Member Chang returned to the question of whether this piece of land could be one that would come under consideration for an auto dealership at the workshop next week, and Mayor Kennedy responded that this would be something for discussion at that time. She stated she was concerned that if it is a possible candidate for dealership use, this decision should wait until after the workshop to discuss this issue because if you plan for an auto dealership it might be laid out differently.

Council Member Sellers recalled from a previous discussion that these uses would not preclude any

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option, because these two uses will be set up so that a larger use could be built around them; and no matter how it was laid out these types of uses would be what would ultimately be placed in this PUD anyway.

Council Member Tate stated that if he believed that assumption, he would support it, but he does not believe that assumption.

Mayor Kennedy stated that he understands and shares concerns raised about jeopardizing a future use that would be better and more appropriate for this PUD. But we have waited a long time and he now feels more like Council Member Carr that perhaps we need to do something to get this moving forward.

Council Member Chang asked if we do this tonight would that preclude putting a dealership there.

Director of Community Development Bischoff responded that no, it would not preclude an auto dealership being placed here. If the Council gave the green light tonight, the infrastructure that would be installed would leave the site open to future development.

Mr. Telfer added the comment that he feels that the Council would have the opportunity to discuss this when the PUD actually comes before them for approval. At that time they would be able to see the locations of infrastructure and construction.

Mr. Bischoff stated that the PUD still has not been adopted, and the Council will have the final approval of what is submitted, and the opportunity at that time to make sure the options for larger tenants is protected.

Council Member Sellers moved that the interpretation of Action 10.5 be modified to allow for the type of uses detailed, with the understanding that the projects still will have to go through the entire PUD process.

Council Member Carr seconded the motion, but asked to hear the comments of the City Manager.

City Manager Tewes stated he was offering help with the wording of the motion. He stated he wanted to make sure that the Council understood that they were not amending anything with their motion, but were only adopting a policy for staff and applicants regarding what constitutes the larger development required by the General Plan. It appears that the larger development proposed this evening, such as the 10,000 square foot medical office building, would be appropriate for that first phase; and the Council has indicated, in accordance with what is already the process, that they would be reviewing the PUD for its impact on future development opportunities.

Carr stated that we should also make it clear that this reinterpretation the Council is asking of staff is on a trial basis; and that we should review this reinterpretation to see if it makes sense after it has been applied once or twice to see if it makes sense and that this was the correct decision.

Council Member Sellers agreed that his motion should be amended to the language of the City Manager's suggestion.

Council Member Tate commented on Council Member's Carr statement that they would come back and after a trial, because there won't be parcels left to correct the process with at a later date.

Council Member Carr does not think that is the case, and though he wants to live by it and protect it, the General plan has to be a living document and is not set in stone.

Council Member Sellers stated that the opportunity to correct any problems with this project would occur during the review of the PUD when it comes back to the Council for review and approval at a later date.

**Action:**        *On a motion by Council Member Sellers, and seconded by Council Member Carr, the City Council approved (3-2, with Chang and Tate voting No) the following: **Directed** Staff to apply a reinterpretation of what constitutes a "larger development" as required by the General Plan for the first phase of development; subject to review and approval of Council during the PUD approval process.*

#### **17.    APPROVAL OF TRUNK SEWER FUNDING IN GILROY AT NEW TARGET DEVELOPMENT**

Director of Public Works Ashcraft presented the staff report. He noted that since the staff report was provided to the Council the request has been increased to \$420, 000 to cover additional expenses for engineering, surveying, and a 4% contingency. Because this trunk line is in the parking lot of the Target development, an immediate decision about our participation needs to be made. If not done soon it would cost more to do it later after the lot has been paved over.

Mayor Kennedy opened the public comment.

No comments being offered, public comment was closed.

The Council expressed concern about the suddenness of this request, and the reason for it coinciding with the development of the Target project.

Mr. Ashcraft was able to explain to them that the problem with this line is that the grade is not steep enough to allow full capacity of sewage flow, so the line has to be re-laid to the proper specifications. This was not discovered until the Target project was begun, and the consultant for Gilroy's Sewer Master Plan did an on-site check of the sewer line. Previously, there was no reason to suspect a problem because the master plan shows the capacity and grade as being adequate, but when there was an on-site check, it was discovered that the pipe is laid on too flat of a grade, so it does not handle the capacity that the master plan reflected. He explained that we are fortunate to have discovered this issue now, as it will cost us much less to fix it now than it would when it would have been inevitably discovered at a later date.

City Manager Tewes noted that the staff is not recommending approval of any agreements at this time,

but only the funding of this particular stretch of pipe replacement.

Council Member Sellers stated that given all the information, we should proceed with this expenditure of \$420,000, but that the issue of our fair share is an issue that must be dealt with in discussions. He requested that the City Manager follow up on the issue of our fair share of costs. He made the motion that the \$420,000 expenditure be approved.

His motion was seconded by Council Member Carr. He made the comment that he does not want our capacity negotiated to a lower amount.

**Action:** *On a motion by Council Member Sellers, and seconded by Council Member Carr, the City Council unanimously (5-0) **Authorized** a Maximum Expenditure of \$420,000 from Unappropriated Sewer Impact Fee Fund Balance for this Co-op Project with the City of Gilroy and **Approved** the Concept of a Cost Sharing Agreement and **Authorized** the City Manager to Execute, with Particular Attention to the Issue of Fair Share of Costs, Subject to Review and Approval by City Attorney.*

## ***Redevelopment Agency and City Council Action***

### **OTHER BUSINESS:**

#### **18. UTILITY UNDERGROUNDING FOR THE ISAACSON GRANARY** (Continued from June 18, 2003)

Director of Business Assistance and Housing Toy presented the staff report, recommending that this issue be referred to the Council Economic Development Subcommittee for further consideration.

Mayor Kennedy opened the public comment.

No comments being offered, public comment was closed.

Council Member Sellers expressed his concern about exempting specific areas from undergrounding. He feels that there needs to be a longer term approach and some opportunities for relief. He does not want to exempt a few projects now and end up in the future with no resources to proceed with the undergrounding.

**Action:** *On a motion by Agency/Council Member Chang, and seconded by Agency/Council Member Sellers, the Agency Board /Council unanimously (5-0) **Directed** Staff to Work with the Council Economic Development Subcommittee to Develop a Program to Assist Developments with Either the Payment of Utility Undergrounding In-Lieu Fees and/or the Installation of the Utility Undergrounding.*

**RECONVENE TO CLOSED SESSION**

Chairperson/Mayor Kennedy adjourned the meeting to Closed Session at 8:54 p.m.

**RECONVENE**

Chairperson/Mayor Kennedy reconvened the meeting at 10:13 p.m.

**CLOSED SESSION ANNOUNCEMENT**

There were no reportable actions.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Chairperson/Mayor Kennedy adjourned the meeting at 10:15 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**MOIRA MALONE DEPUTY CITY CLERK**